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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,658	01/19/2004	Knud Klingler	41587.012502(346)	9864
29493	7590	01/26/2005	EXAMINER	
HUSCH & EPPENBERGER, LLC 190 CARONDELET PLAZA SUITE 600 ST. LOUIS, MO 63105-3441			EDELL, JOSEPH F	
		ART UNIT		PAPER NUMBER
				3636

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR/ PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10/760 658	01/19/04	KINGLER, K.	41587.012502(346)
		EXAMINER	
		EDELL	
ART UNIT	PAPER		
3176		01192005	

DATE MAILED:

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Commissioner for Patents

Notice of Non-responsive Amendment

***Response to Amendment***

The reply filed on 10 November 2004 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

Newly submitted claims 12-31 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Inventions of canceled claims 1-11 drawn toward a lumbar support mechanism and newly submitted claims 12-31 drawn toward a rebate are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the lumbar support mechanism need not have a web with first end and second end including one or more holes. The subcombination has separate utility such as with a lumbar support mechanism having a single panel and a frame member with invariable resistance.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 12-31 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JE  
January 24, 2005

  
Peter M. Cuomo  
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